



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. # AMS-NOP-10-0045; NOP-10-03]

National Organic Program: Notification of Final Guidance on Products in the “Made with Organic *” Labeling Category**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of availability of final guidance.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing the availability of a final guidance document intended for use by accredited certifying agents and certified organic operations. The final guidance document is entitled: Products in the “Made with Organic ***” Labeling Category (NOP 5032). This guidance is intended to inform the public of the National Organic Program’s (NOP) current thinking on this topic.

DATES: The final guidance document announced by this notification of availability is effective on [INSERT DATE 1 DAY AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, Ph.D., Director, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2646-So., Ag Stop 0268, Washington, DC 20250, Email: Melissa.bailey@ams.usda.gov; Telephone: (202) 720-3252; Fax: (202) 205-7808.

SUPPLEMENTARY INFORMATION:

I. Background

On January 13, 2011, the National Organic Program (NOP) published in the Federal Register a notice of availability with request for public comment on a draft guidance document entitled: Made with Organic (Specified Ingredients or Food Group(s)) Products - Product Composition and Use of Percentage Statements (NOP 5032) (76 FR 2328). The draft guidance addressed the labeling, composition and use of percentage statements in “made with organic (specified ingredients or food group(s))” products. The topics covered in the draft guidance document addressed recommendations issued by the National Organic Standards Board (NOSB) and questions posed by accredited certifying agents and certified operations about the composition and labeling portions of the USDA organic regulations (7 CFR §§ 205.301 and 205.304). The draft guidance document can be viewed on-line at <http://www.ams.usda.gov/NopDraftGuidance>. The 60-day comment period closed on March 14, 2011.

The NOP received a total of 26 individual comments on the draft guidance document. Based on the comments received, the NOP revised and is publishing a final guidance on this topic now entitled: Products in the “Made with Organic ***” Labeling Category (NOP 5032). This guidance clarifies the following aspects of products in this labeling category, referred to as “made with organic ***.”

1. Composition;
2. Compliant organic labeling claims;
3. Organic and nonorganic forms of the same ingredient;
4. Percentage of organic ingredients statements; and
5. Ingredients or food groups in the “made with organic ***” claim.

The guidance document includes an appendix (NOP 5032-1) where the NOP provides a

complete discussion of the comments received and the rationale behind any changes made to the guidance document.

The final guidance document is now available from the NOP through “The Program Handbook: Guidance and Instructions for Accredited Certifying Agents and Certified Operations.” The Program Handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the USDA organic regulations. The current edition of the Program Handbook is available online at <http://www.ams.usda.gov/NopProgramHandbook>.

II. Significance of Guidance

This final guidance document is being issued in accordance with the Office of Management and Budget (OMB) Bulletin on Agency Good Guidance Practices (GGPs) (January 25, 2007, 72 FR 3432-3440). The purpose of GGPs is to ensure that program guidance documents are developed with adequate public participation, are readily available to the public, and are not applied as binding requirements. This final guidance document represents the NOP’s current position on this topic. It does not create or confer any rights for, or on, any person and does not operate to bind the NOP or the public. Guidance documents are intended to offer uniform methods for operations that comply with the Organic Foods Production Act (OFPA), as amended (7 U.S.C. 6501-6522) and USDA organic regulations, thereby reducing the burden on operators of developing their own methods and to simplify audits and inspections. Alternative approaches that can demonstrate compliance with the OFPA and its implementing regulations are also acceptable. As with any alternative compliance approach, the NOP strongly encourages industry to discuss alternative approaches with the NOP before implementing them to avoid unnecessary or wasteful expenditures of resources and to ensure the proposed alternative

approach complies with the Act and its implementing regulations.

III. Electronic Access

Persons with access to the Internet may obtain a copy of the final guidance document from the NOP's Web site at <http://www.ams.usda.gov/nop>. Request for hard copies of the final guidance document can be obtained by submitting a written request to the person listed in the FOR FURTHER INFORMATION CONTACT section of this notification of availability.

Authority: 7 U.S.C. 6501-6522.

Dated: April 28, 2014.

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